

SEP 30 2010

JULIA C. DUDLEY, CLERK  
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IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ROANOKE DIVISION

JOSEPH SHANNON SMITH,  
Petitioner,

Civil Action No. 7:10-cv-00433

v.

**FINAL ORDER**

COMMONWEALTH OF VIRGINIA,  
Respondent.

By: Hon. James C. Turk  
Senior United States District Judge

In accordance with the memorandum opinion entered this day, it is now

**ORDERED**

that petitioner's petition for writ of habeas corpus, pursuant to 28 U.S.C. § 2254, is **DISMISSED** **without prejudice** as successive; a Certificate of Appealability is **DENIED**; petitioner's motion to proceed in forma pauperis is **DENIED as moot**; and this action is **STRICKEN** from the active docket of the court.

The Clerk is directed to send a copy of this order and the accompanying memorandum opinion to the petitioner.

ENTER: This 30<sup>th</sup> day of September, 2010.

*[Signature]*  
Senior United States District Judge